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## FISCAL IMPACT REPORT

SPONSOR: Garcia, M.H. DATE TYPED: 02/27/01 HB 612

SHORT TITLE: County Commissioners to Administer Refuse SB \_\_\_\_\_

ANALYST: Padilla

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI		NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Attorney General  
 Department of Environment  
 Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

House Bill 612 amends existing statute on the powers of county commissioners to allow them to compel the taking of solid waste generated in their jurisdictions to designated facilities for processing and disposal.

#### Significant Issues

Current statute provides only that county commissioners can “regulate” the collection and disposal of refuse.

DFA believes this bill address a problem in Dona Ana county, where local government funds have been used to construct and operate regional solid waste facilities that are dependent upon the collection and disposal of refuse in that region. The repayment of the bonds that were issued for the construction demands that a certain level and volume of refuse be generated. If the refuse is directed to another facility, adequate revenues may not be generated, perhaps leaving the local governments to repay the bonds with other revenues.

**FISCAL IMPLICATIONS**

This bill does not contain an appropriation and has no fiscal implications for state government.

Fiscal implications for local governments are discussed above under “significant issues.”

**OTHER SUBSTANTIVE ISSUES**

The Department of Environment notes that this bill would give county commissioners what is known as “flow control.” Flow control, the department reports, has been the subject of several lawsuits in recent years. The U.S. Supreme Court, in *C&A Carbone, Inc. V. Town of Clarkstown, New York*, ruled that a local government’s flow control ordinance violated the Commerce Clause of the U.S. Constitution because it regulated interstate commerce. The syllabus of the decision states, “While [the ordinance’s] immediate effect is to direct local transport of solid waste to a designated site within the local jurisdiction, its economic effects are interstate in reach.” The department asks whether House Bill 612 might raise similar legal questions.

It should be noted that the Attorney General’s office noted “no significant legal issues” in its review of this bill.

LP/njw